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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNILOC USA, INC., UNILOC 2017 LLC and
12 UNILOC LICENSING USA LLC,

13 Plaintiffs,

14 vs.

15 BOX, INC.,

16 Defendant.

No.: 3:18-CV-03432 JST

**DEFENDANT'S NOTICE OF MOTION
AND MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM UPON
WHICH RELIEF CAN BE GRANTED**

Hearing Date: October 25, 2018

Time: 2:00 p.m.

Location: Courtroom 9

Judge: Honorable Jon S. Tigar

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NOTICE OF MOTION

PLEASE TAKE NOTICE that on October 25, 2018, at 2:00 p.m., or as soon thereafter as this matter may be heard, a hearing on this motion will take place in Courtroom 9, 19th Floor of the United States District Court for the Northern District of California, San Francisco Division, located at 450 Golden Gate Avenue, San Francisco, California, the Honorable Judge Jon S. Tigar presiding. This motion is based on the following documents: this Notice of Motion and Motion, the Memorandum of Points & Authorities; the Complaint in this lawsuit; and all the other papers, documents, or exhibits on file or to be filed in this action, and the argument to be made at the hearing on the motion.

STATEMENT OF REQUESTED RELIEF

Defendant Box, Inc. (“Box”) moves the Court for an order dismissing Plaintiff Uniloc USA, Inc., Uniloc 2017 LLC and Uniloc Licensing USA LLC’s (collectively, “Uniloc”) First Amended Complaint for Patent Infringement [Dkt. No. 18] (“Amended Complaint”) for failure to state a claim against Box. *See* Fed. R. Civ. P. 12(b)(6). Uniloc has not pled any of the necessary factual elements required to state a claim for direct infringement, inducement, or contributory infringement. Pursuant to Local Rule 7-2(c), a proposed order is also being filed with this motion.

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF ISSUES

Under the Supreme Court holdings in *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), a complaint for patent infringement must do more than merely state that the law has been violated—it must plead sufficient facts to identify with particularity the products or services accused of infringement and the factual basis for any claim that such products and services allegedly infringe an asserted patent (here, U.S. Patent No. 6,4710,345 (“the ’345 patent”). As explained below, courts applying *Iqbal* and *Twombly* to allegations of patent infringement have held that complaints, such as Uniloc’s Amended Complaint, which merely state conclusory allegations of infringement without the factual basis for such allegations, should be dismissed pursuant to Rule 12(b)(6). To meet the standard for a claim of direct patent infringement, Uniloc must sufficiently identify the actual accused products and/or services and recite factual

1 allegations as to how the Accused Products meet the elements of a claim of the '345 patent. Instead,
 2 Uniloc merely paraphrases the claim elements and concludes that Box infringes. This does not
 3 satisfy the *Twombly/Iqbal* standard, and Uniloc's direct infringement allegations should be
 4 dismissed. *See N. Star Innovations, Inc. v. Micron Tech., Inc.*, CV 17-506-LPS-CJB, 2017 WL
 5 5501489, at *2 (D. Del. Nov. 16, 2017) ("[A] patentee cannot meet its obligation to assert a plausible
 6 claim of infringement under the *Twombly/Iqbal* standard by merely copying the language of a claim
 7 element, and then baldly stating (without more) that an accused product has such an element. That
 8 amounts to little more than a conclusory statement that 'Your product infringes my patent claim.'")

9 Similarly, to support indirect infringement claims—inducement and contributory
 10 infringement—the law requires that Uniloc address the elements of those causes of action and plead
 11 sufficient facts to show that it has a plausible claim for relief. In particular, a claim of indirect
 12 infringement by inducement requires that the defendant act to induce a third party to directly infringe
 13 and that the defendant act with specific intent to cause infringement; Uniloc, however, pleads
 14 insufficient facts about how Box induces customers to commit direct infringement, how Box
 15 specifically intends its consumers to infringe, or how Box's customers directly infringe. Likewise,
 16 Uniloc's indirect infringement claim of contributory infringement merely recites the legal elements
 17 that an allegedly infringing component must lack substantial non-infringing uses and that the
 18 accused infringer must know that the component is especially made or adapted for infringing the
 19 patent. But Uniloc has not pled any factual allegations supporting those elements.

20 For these reasons, Box moves to dismiss Uniloc's Amended Complaint.

21 **II. STATEMENT OF RELEVANT FACTS**

22 **A. Uniloc's Failed Litigation Campaigns Against Box**

23 Uniloc's present lawsuit against Box is the latest in a series of unsuccessful lawsuits in which
 24 Uniloc has asserted dubious patents against Box.

25 Uniloc filed its first round of litigation against Box on August 2, 2016 in the Eastern District
 26 of Texas, asserting three patents, U.S. Pat. Nos. 6,324,578; 7,069,293; and 6,510,466. *Uniloc USA,*
 27 *Inc. et al v. Box, Inc.*, Case No. 2:16-cv-00860 (E.D. Tex.), *consolidated into Uniloc USA, Inc. et al*
 28 *v. ADP, LLC*, Case No. 2:16-cv-00741 ("Box I"). Box filed a motion to dismiss that case for failure

1 to state a claim under 35 U.S.C. § 101 and for improper venue. While that motion was pending,
2 Uniloc voluntarily dismissed its claims against Box without prejudice and refiled its complaint in the
3 Western District of Texas. *Uniloc USA, Inc. et al v. Box, Inc.*, Case No. 1:17-cv-00755 (W.D. Tex.).
4 Shortly thereafter, the Eastern District Box I court granted another defendant’s motion to dismiss
5 under Section 101, and on that basis Uniloc agreed to dismiss the Western District action against
6 Box. *Uniloc USA, Inc. et al v. ADP, LLC*, Case No. 2:16-cv-00741, Dkt. No. 267 (E.D. Tex. Sept.
7 28, 2017).

8 While Box I was pending, Uniloc initiated a second patent litigation against Box in the
9 Eastern District of Texas on March 6, 2017, asserting one patent, U.S. Pat. No. 6,110,228. *Uniloc*
10 *USA, Inc. et al v. Box, Inc.*, Case No. 2:17-cv-00173 (E.D. Tex.) (“Box II”). Again, Box filed
11 motions to dismiss under Section 101 and for improper venue, and again Uniloc voluntarily
12 dismissed its claims against Box without prejudice and refiled its complaint in the Western District
13 of Texas. *Uniloc USA, Inc. et al v. Box, Inc.*, Case No. 1:17-cv-00754 (W.D. Tex.). Box filed yet
14 another motion to dismiss under Section 101 in the Western District, as well as a motion to transfer
15 venue to the Northern District of California. The court granted Box’s motion to transfer to the
16 Northern District, but shortly after transfer, another district court held that the asserted claims of the
17 ’228 patent were directed to ineligible subject matter under 35 U.S.C. § 101. *Uniloc, USA Inc. v. Big*
18 *Fish Games, Inc.*, Case No. 17-cv-01183-RAJ, Dkt. No. 55 (W. D. Wash., June 19, 2018). Uniloc
19 and Box agreed to stay the Box II case pending the outcome of Uniloc’s appeal of that decision.

20 **B. Uniloc’s Amended Complaint**

21 Uniloc filed its complaint in this action—its third round of patent litigation against Box—on
22 June 8, 2018. (Dkt. No. 1.) The parties stipulated under L.R. 6-1(a) to extend the date for Box to
23 respond to Uniloc’s complaint to September 21, 2018. (Dkt. No. 16.) On September 5, 2018, Uniloc
24 filed its Amended Complaint. (Dkt. No. 18.)

25 Uniloc’s Amended Complaint asserts that Box commits direct infringement, inducement, and
26 contributory infringement of claims 1, 9, 17, 25, 33, and 41 (“the asserted claims”) of the ’345
27 patent. (Amended Complaint ¶¶ 9-17.) The ’345 patent generally relates to “[a] method and system
28

for replacing substrings in file and directory pathnames with numeric tokens.” (Dkt. No 2, Ex. A, Abstract.) In particular, claim 1 of the ’345 patent recites:

1. A method for replacing substrings in file and directory pathnames with tokens in a computer-implemented file system, comprising the acts of:
 reading a name string to be converted into a list of tokens;
 canonicalizing a current working directory and the name string to form a pathname containing a plurality of substrings;
 parsing the pathname and replacing each substring with an associated token;
 and
 validating the parsed pathname containing the list of tokens.

(Dkt. No 2, Ex. A, claim 1.)

Uniloc’s Amended Complaint includes only sparse allegations. For direct infringement, Uniloc broadly defines “Accused Products” as “Box content management and file sharing software, including Business, Individual and Enterprise Editions,” asserts that the Accused Products perform a paraphrased description of the elements of claim 1, and asserts that Box directly infringes by selling the Accused Products:

10. Box manufactures, uses, sells, offers for sale and/or imports into the United States the Box content management and file sharing software, including Business, Individual and Enterprise Editions (the “Accused Products”), which replace substrings in file and directory pathnames with tokens by reading a name string to be converted into a list of tokens, canonicalizing a current working directory and the name string to form a pathname that contains a plurality of substrings, parsing the pathname and replacing each substring with an associated token, and validating the parsed pathname containing the list of tokens.

11. Box has directly infringed, and continues to directly infringe, one or more claims of the ’345 Patent in the United States during the pendency of the ’345 Patent, including claims 1, 9, 17, 25, 33, and 41 literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling and/or importing the Accused Products.

(Amended Complaint ¶¶ 10-11.) The assertion regarding the functionality of the Accused Products merely paraphrases the elements of claim 1. (*Compare* Amended Complaint ¶ 10 *with* Dkt. No. 2, Ex. A, claim 1.) But the Amended Complaint lacks any factual allegations as to how the Accused Products meet the elements of claim 1, or any other claim of the ’345 patent.

For induced infringement, Uniloc’s Amended Complaint alleges:

13. Box has indirectly infringed, and continues to indirectly infringe, claims 1, 9, 17, 25, 33, and 41 of the ’345 Patent in the United States by, among other things, actively inducing the using, offering for sale, selling and/or importing the Accused Products having the functionality described in this Count. Box’s customers who use such the

Accused Products in accordance with Box's instructions directly infringe claims 1, 9, 17, 25, 33, and 41 of the '345 Patent in violation of 35 U.S.C. § 271. Box directly and/or indirectly intentionally instructs its customers to infringe through training videos, demonstrations, brochures, installation and/or user guides such as those located at one or more of the following:

- www.box.com
- <https://developer.box.com/reference>
- <https://community.box.com/t5/Managing-Files-and-Folders/Rename-Files-And-Folders/ta-p/50467>
- <https://support.myharmony.com/en-us/compatibility>

Box is thereby liable for infringement of the '345 Patent under 35 U.S.C. § 271(b).

(Amended Complaint ¶ 13.) But the Amended Complaint lacks any factual allegations as to how Box's customers directly infringe the '345 patent, and, therefore, how Box specifically intends to cause its customers to infringe.

Lastly, for contributory infringement, Uniloc's Amended Complaint alleges:

Box has indirectly infringed, and continues to indirectly infringe, claims 1, 9, 17, 25, 33, and 41 of the '345 Patent in this District and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Accused Products, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringing the '345 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use. Box is thereby liable for infringement of the '345 Patent under 35 U.S.C. § 271(c).

(Amended Complaint ¶ 14.) Again, these allegations are unaccompanied by any allegations as to how Box's customers directly infringe the '345 patent. Moreover, the Amended Complaint does not identify any "component" of the Accused Products that Box allegedly knows to be adapted for use in infringing the '345 patent, nor does the Amended Complaint include any factual allegations to support this assertion regarding Box's knowledge. (*Id.*)

On September 11, in an effort to avoid wasting the resources of this Court and the parties, Box sent Uniloc a letter detailing the pleading deficiencies in Uniloc's Amended Complaint and requesting that Uniloc either dismiss its complaint or file an amended complaint that resolved the pleading deficiencies. (Declaration of Seth B. Herring, Ex. A.) Uniloc did not respond to Box's letter. (Declaration of Seth B. Herring ¶ 2.)

III. ARGUMENT

A. Legal Standard For A Motion To Dismiss Under Rule 12(b)(6)

A party may move for dismissal of an action for failure to state a claim upon which relief can be granted. FED. R. CIV. P. 12(b)(6). A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” FED. R. CIV. P. 8(a)(2). The Supreme Court in *Twombly* made clear that Rule 8 requires that a complaint must include “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. In *Iqbal*, the Supreme Court clarified that the *Twombly* plausibility pleading standard applies to “all civil actions.” *Iqbal*, 129 S. Ct. at 1953. The *Iqbal* Court outlined three principles that are directly applicable to the insufficiency of Uniloc’s claims. First, “legal conclusions” and “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.* at 1949. Second, “legal conclusions couched as factual allegations” are not factual allegations. *Id.* at 1950. Third, regardless of what is alleged, “the well-pleaded facts” must do more than “infer” “the mere possibility of misconduct,” they must “plausibly give rise to an entitlement to relief.” *Id.*

To survive a motion to dismiss, a “complaint must plead enough factual matter that, when taken as true, states a claim to relief that is plausible on its face.” *In re Bill of Lading Transmission and Processing System Patent Litigation*, 681 F.3d 1323, 1331 (Fed. Cir. 2012) (citing *Twombly*, 550 U.S. at 570) (internal quotations omitted). “This plausibility standard is met when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Iqbal*, 556 U.S. at 678) (internal quotations omitted). “[T]he standard asks for more than a sheer possibility that a defendant acted unlawfully.” *Id.* (citing *Iqbal*, 556 U.S. at 678) (internal quotations omitted). “A complaint that merely pleads facts that are consistent with a defendant’s liability stops short of the line between possibility and plausibility.” *Id.*, 681 F.3d at 1332 (citing *Twombly*, 550 U.S. at 556) (internal quotations omitted). “[T]he tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions.” *Iqbal*, 556 U.S. at 678. “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.*

1 Plaintiff's allegations of direct infringement, inducement and contributory infringement do
2 not satisfy the standard from *Twombly* and *Iqbal*.

3 **B. The Amended Complaint Fails To State A Claim For Direct Infringement**

4 Uniloc's claim for direct infringement against Box (Amended Complaint ¶¶ 10-12) is not
5 adequately pled and should be dismissed. First, Uniloc fails to specifically identify the accused
6 products. Second, Uniloc fails to plead sufficient factual matter that states a claim for direct
7 infringement that is plausible on its face.

8 The Amended Complaint purports to define the "Accused Products" as "Box content
9 management and file sharing software, including Business, Individual and Enterprise Editions."
10 (Amended Complaint ¶ 10.) This broad definition, which nearly encompasses the entirety of Box's
11 business, falls far short of providing an "allegation that certain named and specifically identified products
12 or product components also do what the patent does," and thus fails to raise "a plausible claim that the
13 named products are infringing." *Bender v. LG Elecs. U.S.A., Inc.*, No. C 09-2114 JF, 2010 WL 889541,
14 at *6 (N.D. Cal. Mar. 11, 2010). For example, in *Avocet Sports Tech., Inc. v. Garmin Intl., Inc.*, 2012
15 WL 1030031, at *2 (N.D. Cal. Mar. 22, 2012), the court found that "Plaintiff has not provided
16 sufficient 'factual content that allows the court to draw the reasonable inference' that Defendant
17 Polar is liable for direct infringement" because "Plaintiff fails to identify any of Defendant Polar's
18 **particular products, product lines, or product components** that allegedly infringed on the '427
19 Patent." *Id.* (emphasis added); *see also Lantiq N.A., Inc. v. Ralink Tech. Corp.*, 2011 WL 2600747,
20 at *5–8 (N.D. Cal. June 30, 2011) (identification of accused products lacked required specificity that
21 was directed to "categories of products" including "[a]ccess point (AP), router, Ethernet, network
22 interface controller, universal serial bus (USB), peripheral component interconnect (PCI), PCI
23 express (PCIe), and/or 802.11x products; Voice over Internet Protocol (VoIP) products, Bluetooth
24 and WiFi products; bridge, router, gateway, 802.11x and/or xDSL (digital subscriber line) products"
25 because "[t]hese lists of products ... are not specific and do not identify any single product by name
26 or number."). Likewise, the Amended Complaint's vague and expansive assertion against categories
27 of accused products—"Box content management and file sharing software, including Business,
28 Individual and Enterprise Editions"—fails to identify particular products or any accused features.

Second, the infringement allegations in the Amended Complaint are devoid of any facts and completely conclusory. In particular, Uniloc’s Amended Complaint does nothing more than allege that the Accused Products meet a paraphrased recitation of the elements of claim 1 of the ’345 patent. (*Compare* Amended Complaint ¶ 10 (alleging that the Accused Products “replace substrings in file and directory pathnames with tokens by reading a name string to be converted into a list of tokens, canonicalizing a current working directory and the name string to form a pathname that contains a plurality of substrings, parsing the pathname and replacing each substring with an associated token, and validating the parsed pathname containing the list of tokens” *with* Dkt. No. 2, Ex. A, claim 1.) Uniloc has pled no facts to support this naked allegation that the Accused Products meet these claim elements. Uniloc’s copying of the claim language is a legal conclusion, not entitled to any deference, and its claim for direct infringement should be dismissed. *See N. Star Innovations, Inc.* 2017 WL 5501489, at *2; (“[A] patentee cannot meet its obligation to assert a plausible claim of infringement under the *Twombly/Iqbal* standard by merely copying the language of a claim element, and then baldly stating (without more) that an accused product has such an element. That amounts to little more than a conclusory statement that ‘Your product infringes my patent claim.’”); *see also California Inst. of Computer Assisted Surgery, Inc. v. Med-Surgical Services, Inc.*, 2010 WL 3063132, at *1–2 (N.D. Cal. Aug. 3, 2010) (granting motion to dismiss complaint for patent infringement that “merely reiterates the bare elements of patent infringement” and “fails to allege with any specificity what [the accused product] is and how it infringes upon any of its four patents.”).

C. The Amended Complaint Fails To State A Claim For Inducement

Liability for induced infringement requires evidence that: 1) a party took some action during the time the patents in suit were in force intending to encourage or assist actions by others; 2) the party was aware of the patent and knew that the acts, if taken, would constitute infringement of that patent or the party believed there was a high probability that the acts, if taken, would constitute infringement of the patent but deliberately avoided confirming that belief; and 3) use by others of the party’s product infringes one or more of the asserted claims of the patent. *Power Integrations, Inc. v. Fairchild Semiconductor Intl., Inc.*, 843 F.3d 1315, 1330 (Fed. Cir. 2016). A complaint claiming

inducement “must contain facts plausibly showing that [defendant] specifically intended their customers to infringe the [] patent and knew that the customer’s acts constituted infringement.” *In re Bill of Lading Transmission & Processing Sys. Patent Litig.*, 681 F.3d 1323, 1339 (Fed. Cir. 2012); *see also Mouldtec, Inc. v. Pagter & Partners Int’l B.V.*, No. 1:12-cv-4249, 2012 WL 5966593, at *2 (N.D. Ill. Nov. 28, 2012) (requiring patentee to provide factual allegations supporting specific intent); *Radiation Stabilization Solutions, Inc. v. Varian Med. Sys., Inc.*, No. 11 C 7701, 2012 WL 3757489, at *3 (N.D. Ill. Aug. 28, 2012) (stating that patentee must show that “the alleged infringer knowingly induced infringement and possessed specific intent to encourage another’s infringement”); *Bascom Research LLC v. Facebook, Inc.*, No. C 12-6293 SI, 2013 WL 968210, at *5 (N.D. Cal. Mar. 12, 2013) (explaining that acceptable inducement claims include, for example, “factual allegations setting forth the similarities between the patent claims and the advertised features of the [defendant’s] products” (internal quotations omitted)). Uniloc’s inducement claim fails for two reasons.

First, the Amended Complaint lacks factual allegations regarding any actions Box has taken that induce its customers to directly infringe. Other than alleging that Box generally instructs consumers to use the Accused Products through “training videos, demonstrations, brochures, installation and/or user guides” (Amended Complaint ¶ 13), Uniloc fails to cite or attach any specific videos or documents, and does not recite any facts that explain how these “training videos, demonstrations, brochures, installation and/or user guides” specifically instruct its customers to practice the asserted claims of the ‘345 patent.

Second, Uniloc also fails to sufficiently plead Box’s specific intent to cause infringement. Specific intent requires inducing consumers to commit acts with the knowledge that those acts constitute patent infringement. *See Bill of Lading*, 681 F.3d at 1339. Here, Uniloc only alleges Box’s knowledge of the ‘345 patent via Uniloc’s filing of this action. (Amended Complaint ¶ 15). As an initial matter, this allegation is inadequate because it fails to plead pre-litigation knowledge of the ‘345 patent. *See IPVenture, Inc. v. ASUS Computer Intl.*, 2013 WL 12173913, at *2–3 (N.D. Cal. May 6, 2013) (dismissing claims for indirect infringement because complaint failed to adequately plead “Defendant’s pre-litigation knowledge of the patents.”). Furthermore, Uniloc fails to explain

1 how Box’s alleged knowledge of the ’345 patent translates into an intent to have its customers
2 infringe. Indeed, the absence of any allegations as to how Box’s customers directly infringe
3 necessarily precludes the requisite specificity as to how Box intends its unspecified inducing acts to
4 cause direct infringement.

5 Third, the Amended Complaint includes no factual allegations on how Box’s customers
6 directly infringe. A claim for inducement requires a direct infringement by third party. *See, e.g.,*
7 *Power Integrations*, 843 F.3d at 1330 (“[E]stablish[ing] active inducement of infringement” includes
8 showing “that others directly infringe the claim.”); *Bill of Lading*, 681 F.3d at 1333 (“It is axiomatic
9 that ‘[t]here can be no inducement or contributory infringement without an underlying act of direct
10 infringement.’”); *see also Avocet Sports Tech., Inc. v. Garmin Intl., Inc.*, 2012 WL 1030031, at *2
11 (N.D. Cal. Mar. 22, 2012) (finding that “Plaintiff has not sufficiently ... induced infringement” in
12 part because “Plaintiff has not alleged any facts to suggest that there was direct infringement by a
13 third party.”). This absence of any particularized allegations as to how Box’s customers directly
14 infringe renders Uniloc’s inducement allegation effectively meaningless.

15 District courts routinely dismiss improper inducement claims—like Uniloc’s—that fail to
16 plead sufficient factual allegations that the defendant encourages specific infringing acts by third
17 parties and that the defendant intends to cause infringement through such encouragement.
18 *See Grobler v. Sony Computer Entm’t Am. LLC*, No. C 12-1526 LHK, 2013 WL 308937, at *2 (N.D.
19 Cal. Jan. 25, 2013); *U.S. Ethernet Innovations, LLC v. Netgear, Inc.*, 2013 WL 4112601, at *2 (N.D.
20 Cal. Aug. 12, 2013) (dismissing claims for indirect infringement because “USEI has not adequately
21 plead that Netgear knew that these acts would constitute patent infringement”). In *Grobler*, the court
22 explained that although plaintiff alleged knowledge of the patent and “alleged facts sufficient to
23 support an inference that [the defendant] intend[ed] its customers to download rental movies,” this
24 generalized proposition could not “plausibly support an inference of intent” to cause specific
25 infringing acts. *Grobler*, 2013 WL 308937, at *3. Similarly, Uniloc here only alleges that Box
26 knows of the ’345 patent, through Uniloc’s filing of this action, and encourages its customers to use
27 the Accused Products. These allegations are insufficient to support a claim of inducement.

D. The Amended Complaint Fails to State A Claim For Contributory Infringement

Liability for contributory infringement requires a sale or offer for sale of components that are (a) material to practicing the claimed invention, (b) not suitable for “substantial noninfringing use,” and (c) known by the alleged infringer “to be especially made or especially adapted for use in an infringement of such patent.” *Bill of Lading*, 681 F.3d at 1337 (quoting 35 U.S.C. § 271(c)); *see also Mouldtec*, 2012 WL 5966593, at *3 (analyzing contributory infringement pleading “element by element”). Plaintiff’s contributory infringement claim fails for two reasons.

First, Uniloc does not allege any facts regarding why or how the Accused Products lack substantial non-infringing uses; instead, the Amended Complaint merely states that an unspecified “component” of the Accused Products is “especially adapted for use in infringing the ’345 Patent,” is “not a staple article or commodity of commerce,” and lacks “substantial non-infringing use.” (Amended Complaint ¶ 15.) Because the Amended Complaint contains a legal conclusion of no substantial non-infringing use without supporting factual allegations, it fails to state a claim for contributory infringement. *See Mouldtec*, 2012 WL 5966593, at *3 (dismissing contributory infringement because counterclaimant “failed to provide any factual allegation to support that there are ‘no substantial non-infringing uses’ as required”); *IpVenture, Inc. v. Cellco P’ship*, No. C 10-4755 JSW, 2011 WL 207978, at *3 (N.D. Cal. Jan. 21, 2011) (rejecting contention that “bare recitation of the elements of the claim [is] sufficient” and dismissing indirect infringement claims);

Select Retrieval, LLC v. Bulbs.com Inc., No. 12-cv-10389-TSH, 2012 WL 6045942, at *5 (D. Mass. Dec. 4, 2012) (dismissing complaint that merely “recite[s] the statutory elements of an indirect infringement claim”).

Second, Uniloc does not allege any facts regarding Box’s knowledge that the Accused Products, or any component thereof, is purportedly especially made or adapted to cause Box’s customers to directly infringe the ’345 patent. Without allegations as to how Box’s customers directly infringe the ’345 patent, the allegation that Box “know[s] [an unspecified component of the Accused Products] to be especially made or especially adapted for use in infringing the ’345 Patent” is meaningless. (Amended Complaint ¶ 14.) This statement is a mere legal conclusion and does not

suffice to plead contributory infringement. *See Addiction and Detoxification Inst. L.L.C. v. Carpenter*, 620 Fed. Appx. 934, 938 (Fed. Cir. 2015) (“Simply repeating the legal conclusion that Defendants induced infringement or contributorily infringed does not plead ‘factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.’”); *see also Mouldtec*, 2012 WL 5966593, at *3 (dismissing contributory infringement because no allegation of knowledge that product was “especially made or especially adapted for use in an infringement of such patent”) (quoting *Bill of Lading*, 681 F.3d at 1337 (internal quotations omitted)); *IpVenture*, 2011 WL 207978, at *3 (rejecting contention that “bare recitation of the elements of the claim [is] sufficient” and dismissing indirect infringement claims); *Select Retrieval*, 2012 WL 6045942, at *5 (dismissing complaint that merely “recite[s] the statutory elements of an indirect infringement claim”).

IV. CONCLUSION

Uniloc’s Amended Complaint failed to allege any facts to support a plausible claim for direct infringement, inducement, or contributory infringement. Instead, Uniloc has recited bare legal conclusions with no specificity. Accordingly, Box respectfully requests that the Court dismiss Uniloc’s claims for direct infringement, inducement, and contributory infringement.

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